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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,500	07/16/2003	Stephane Andre Follonier		8508

7590 07/28/2005

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EXAMINER

GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/620,500	FOLLONIER, STEPHANE ANDRE	
	Examiner	Art Unit	
	Randy W. Gibson	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-24 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed June 30, 2005 have been fully considered but they are not persuasive. Applicant argues: (1). "Haberl uses a capacitive measurement (Claim 1)." The relevance of this fact has not been adequately explained since applicant's claim 1 does not expressly state that the claimed flexible weighing device is not a capacitor. Only in claim 21 does the applicant specify that his mat is formed from a flexible "piezo-resistive" material (applicant's claim 19 specifies that the mat is formed from a flexible resistive material, but since the capacitive mat of Haberl is formed from a flexible dielectric (I.E.: insulative) material, and since an insulator by definition is a poor conductor (I.E.: a highly resistive material), then this limitation found in these claims is met by the capacitive mat disclosed in the reference). The examiner notes also that claim 20 specifies that the measuring cell is made from a resistive elastomer imbedded in a flexible insulator – a structure which Haberl does not seem to disclose. In short, this argument has some relevance to the patentability of applicant's claims 20 & 21, but not applicant's claim 1.

It appears that applicant is arguing about Haberl's claimed device (which is irrelevant to these proceedings since infringement of previously patented claims -- like those of Haberl -- is not an issue decided by the patent examiner), rather than arguing about the differences between applicant's own claimed invention and the knowledge generally available to one of ordinary skill in the art (where Haberl's disclosure is being used by the examiner as evidence of what knowledge is generally known). If applicant's

claims can be interpreted to describe a device which previously existed, then applicant's claims as worded are unpatentable. Appellant does not seem to be discussing the wording of his own claims at all.

Applicant argues: (2) "Haberl uses the same material for the entire force measuring capacitor, i.e. the connector and sensor areas are made out of similar material (Claim 15-24)". The particular claims being referred to in applicant's application seem to say nothing about the connector and sensor areas, or what they are made of (claim 15 describes a flexible display, for example, and claim 24 is a method for measuring a moving object, for example). The relevance of this argument is not understood since applicant is not comparing his own claim language to the prior art. Applicant seems to be discussing the wording of Haberl's claims instead of his own.

Applicant argues: (3) "Haberl uses multiple electrodes with the goal of increasing sensitivity (Col 9, lines 59-67) and not to render the device flexible. Similarly, the electrodes are chosen to be material compatible, not to render the device flexible." Exactly how this argument is relevant to the applicant's claimed invention is not understood. Haberl clearly states that his weighing mat is flexible – since he uses a flexible dielectric made of rubber or plastic for this very purpose. Exactly how the mat is made flexible does not seem to be an issue, since applicant's own claims as worded do not seem to specify anything more than that the overall device be flexible.

Applicant argues: (4) "In Col. 10, lines 3-16, Haberl uses a grid to locate the pressure points not to [sic] render the weighing device flexible." Once again, it is not

clear why this fact is relevant since Haberl clearly states that his weighing mat is flexible.

Applicant argues: (5) " In Col. 10, lines 17-22, Haberl uses a grid to monitor local impact forces and not gather [sic] the total force". The examiner disagrees that this is what the Haberl reference teaches; in this particular paragraph the Harberl reference seems to simply speculate about possible alternative uses for the disclosed sensing mat. Even if the disclosure of Haberl is determined to be limited to a device for sensing local impact forces only, and not the total force applied, it is not clear that the language of applicant's claims specify anywhere that applicant's device measures the total force either. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues: (6) "The degree of flexibility has, for Haberl, not been mentioned, e.g. the capacitor cannot be folded." The examiner notes that applicant's claims do not specify the degree of flexibility either; applicant's own claims do not seem to state anywhere that applicant's mat is foldable. As noted previously, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Applicant further explains in six additional points differences between his device and the mat disclosed by the Haberl reference and adds in conclusion that it would not be possible to make a resistive foldable mat back in 1978. Applicant's points are noted, but it is not clear, except with respect to claims 21 or 22, how the applicant's claims as

worded mention any of these distinguishing features. Since applicant does not discuss the wording of his claims, his arguments are unpersuasive.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “flexible display” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 22 and 24 are objected to because of the following informalities: in claim 22, placing the word "semi-" in parenthesis creates confusion as to whether this prefix is intended to be part of the claimed limitations, or an optional limitation; optional limitations are not allowed so the parenthesis should be removed. Also, the numbering of the steps 1-3 in claim 24 should be done with a numeral followed by a right parenthesis, rather than by a period since this might confuse the printer as to whether these are separate steps in a single claim or else three separate claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-9, 14, 18, 19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Haberl et al (US # 4,266,263). Haberl et al discloses the claimed invention including a flexible mat (Col. 1, lines 5-13; Col. 9, lines 59-67) and an embodiment consisting of multiple non-flexible measuring cells (Col. 10, lines 3-16).

5. Claims 1, 2, 4, 9, 14, 18, 19, 20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US # 3,895,421). Miller discloses multiple layers of flexible

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conductive (IE: resistive) layers imbedded in a flexible dielectric (IE: insulative) layers, so the limitation of claim 20, in addition to the other listed claims, is expressly met.

6. Claims 1, 2, 4, 8, 9, 14, 18, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuhn et al (US # 3,782,486).

7. Claims 1, 2, 9, 13, 14, 17, 18, 20, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bratton et al (US # 4,793,429).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haberl et al (US # 4,266,263). Haberl discloses the claimed device except it does not expressly state that the circuitry is incorporated into the weighing device (claims 12 & 16) or separate (claims 13 & 17). It is obvious that the disclosed circuitry has to go somewhere, and the examiner takes official notice that both ideas of incorporating the controlling circuitry into a weighing device, and locating the controlling

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circuitry elsewhere is well know and that it would have been obvious for the ordinary practioner to use either configuration motivated by its art recognized suitability for its intended use. See MPEP §§ 2144.03 & 2144.07.

10. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratton et al (US # 4,793,429) in view of Castle (US # 4,969,112). Bratton et al disclose the claimed weighing device except for the use of wireless connections. Castle teach that the use of wireless communication of data in a vehicle weighing device is known (Col. 1, lines 26-61) It would have been obvious to equip the vehicle weighing pads of Bratton et al with wireless communication, or a combination of wireless and cable communication, as suggested by Castle, in order to reduce the number of lose entangling cables.

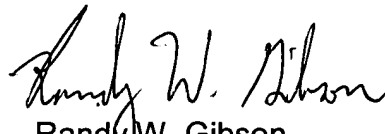
Conclusion

11. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Although rigid displays mounted on a flexible or pivotable joint so that their angle of orientation is adjustable is generally known in the art, there does not seem to be any motive found in the art of record to modify any of the prior art devices to include a flexible display. The patentability of claim 22 cannot be determined since is is unclear as to what is being claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Randy W. Gibson
Primary Examiner
Art Unit 2841